

Message Text

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ORIGIN EB-07

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L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

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DRAFTED BY EB/FTD:AJWILLIAMS:HM

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TO USMISSION GENEVA PRIORITY

INFO AMEMBASSY CANBERRA PRIORITY

AMEMBASSY MANILA

C O N F I D E N T I A L STATE 275375

E.O. 11652:GDS

TAGS:ETRD, GATT

SUBJECT:TEXTILES AUSTRALIAN - PHILIPPINES DISPUTE

GENEVA FOR PHELAN

REF: A. GENEVA 8592 B. GENEVA 8669 C. GENEVA 8562

1. MISSION'S REPORTS ON THE TEXTILE SURVEILLANCE BODY'S
CONSIDERATION OF AUSTRALIAN - PHILIPPINE CASE (REFTELS)
HAVE GREATLY ASSISTED WASHINGTON AGENCIES IN IDENTIFYING
ISSUES RAISED BY CASE AND TO COMPREHEND PRESSURES FACED BY
TSB IN SEEKING EXERCISE ITS FUNCTIONS UNDER ARRANGEMENT
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REGARDING INTERNATIONAL TRADE IN TEXTILES (MFA).

WASHINGTON AGENCIES APPRECIATE EFFORTS TO ASSURE THAT TSB'S HANDLING OF CASE AVOIDS VIOLENCE TO PRINCIPLES OF FUNDAMENTAL IMPORTANCE TO U.S. IN INTERPRETATION OF MFA.

2. OUR MOST IMMEDIATE INTEREST CENTERS ON PRECEDENTIAL SIGNIFICANCE OF TSB INTERPRETATION OF MFA PRINCIPLES RATHER THAN SPECIFICS OF AUSTRALIAN - PHILIPPINE CASE. IT IS DIFFICULT TO OVERSTATE IMPORTANCE OF PRINCIPLES INVOLVED IN CASE TO U.S. TEXTILE POLICY. SHOULD FOUNDATION PROVIDED BY MFA FOR UNILATERAL TEXTILE RESTRAINTS BE WEAKENED, VIABILITY OF IMPORTANT ASPECT OF U.S. TEXTILE

RESTRAINT PROGRAM WOULD BE JEOPARDIZED, I.E., OUR ABILITY TO TAKE ARTICLE 3 MEASURES IF ARTICLE 4 NEGOTIATIONS ARE UNSUCCESSFUL.

3. APART FROM OUR INTEREST IN THE TSB'S INTERPRETATION OF CRITICAL MFA PROVISIONS AND WITHOUT ADDRESSING SPECIFICS OF AUSTRALIAN AND PHILIPPINE CASES, WE ARE ALSO CONCERNED THAT TSB'S DECISION ON CASE NOT LEAD AUSTRALIA AND PHILIPPINES TO TAKE ACTION HARMFUL TO MFA. WE SHARE MISSION'S DESIRE THAT THIS ISSUE WITH ALL ITS RAMIFICATIONS NOT BE RAISED IN TC, BUT ARE PREPARED TO RISK THIS POSSIBILITY TO AVOID INTERPRETATION OF MFA POTENTIALLY DAMAGING TO U.S. POSITION. WE FURTHER BELIEVE EVERY EFFORT SHOULD BE MADE TO PREVENT AUSTRALIA FROM EITHER DEFYING TSB OR WITHDRAWING FROM MFA. ANY SUCH ACTION BY AUSTRALIA COULD EASILY PROVIDE THE EXCUSE FOR OTHER MAJOR IMPORTING COUNTRIES TO SUCCUMB TO PROTECTIONIST PRESSURES WHICH WOULD ERODE SUPPORT FOR ORDERLY REGULATION OF INTERNATIONAL TEXTILE TRADE.

4. MOST CRITICAL ISSUE RAISED BY CASE IS INTERPRETATION TO BE GIVEN BY TSB TO CRITERIA FOR MARKET DISRUPTION OR THREAT THEREOF CONTAINED ARTICLE 3 AND ANNEX A. U.S. UNDERSTANDS THAT CONSULTATIONS MAY BE REQUESTED UNDER ARTICLE 3 WHENEVER IMPORTING COUNTRY IS OF OPINION RPT IS OF OPINION MARKET DISRUPTION OR THREAT THEREOF EXISTS AND THAT, UNDER "CUMULATIVE CONCEPT," RESTRAINTS MAY BE IMPOSED WHENEVER IMPORTS FROM COUNTRY RESTRAINED

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CONTRIBUTE TO MARKET DISRUPTION OR THREAT THEREOF. U.S. CANNOT COMPROMISE ON THIS POINT AND BELIEVES EVERY EFFORT SHOULD BE MADE TO PREVENT TSB FROM EQUIVOCATING ON IT.

5. U.S. ADAMANCY ON THIS POINT IS NOT INTENDED TO PRECLUDE RECOGNITION UNDER ARTICLE 6, PARAGRAPH 3, OF SOME MEASURE OF SPECIAL CONSIDERATION TO CERTAIN

EXPORTERS, POSSIBLY INCLUDING THE PHILIPPINES, WHOSE EXPORTS MAY CONTRIBUTE IN A MARKEDLY UNIMPORTANT WAY TO MARKET DISRUPTION. WHATEVER SPECIAL CONSIDERATION MAY BE CALLED FOR SHOULD, HOWEVER, NOT GIVE RISE TO PRINCIPLE THAT RESTRAINTS MUST BE JUSTIFIED ON BASIS OF DAMAGE OR THREAT THEREOF ONLY FROM IMPORTS FROM THE COUNTRY AGAINST WHOM THE RESTRAINTS ARE TO BE LEVIED.

6. WE BELIEVE CHANGES IN DRAFT TEXT DETAILED BELOW WOULD ADEQUATELY PROTECT U.S. INTERESTS UNDER MFA. U.S. HAS GIVEN REPEATED DEMONSTRATIONS THAT WE TAKE OUR OBLIGATIONS UNDER MFA SERIOUSLY, AND WE BELIEVE OTHER NATIONS WILL UNDERSTAND THAT WE MUST GIVE EQUALLY SERIOUS CONSIDERATION TO CONCEPTS UNDERLYING OUR RIGHTS.

7. WE APPRECIATE EFFORTS BEING MADE BY MISSION TO PROTECT THESE BASIC U.S. INTERESTS AND UNDERSTAND DIFFICULTY OF INTERPRETING BASIS CONCEPTS IN CONTEXT OF A SPECIFIC CASE INVOLVING SPECIAL PROBLEMS OF ITS OWN. GIVEN IMMINENT TC MEETING, U.S. LOOKS FORWARD TO USEFULNESS OF OPPORTUNITY THIS MEETING WILL PROVIDE FOR EXTENSIVE, INFORMAL DISCUSSIONS AMONG SELECTED MEMBERS OF MFA ON PRECEDENTIAL ISSUES WHICH HAVE BEEN RAISED.

8. CHANGES TO DRAFT TEXT:

A) PARA 1-3; NO CHANGE

B) PARA 4; REPLACE "CONCLUSIVELY" BY "APPEAR TO" AND INSERT AFTER "DAMAGE" AND BEFORE "TO" "OR ACTUAL THREAT THEREOF".

C) PARA 5: SHOULD NOW READ "WHILE RECOGNIZING THAT SMALL QUANTITIES OF IMPORTS CAN CONTRIBUTE TO THE CAUSE
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OR ACTUAL THREAT OF SERIOUS DAMAGE, EVIDENCE FOR RELEVANT PERIOD DEMONSTRATES THAT QUANTITATIVE INCREASE IN IMPORTS FROM PHILIPPINES HAD NOT CONTRIBUTED TO OR REACHED A LEVEL WHICH CAUSED OR THREATENED SERIOUS DAMAGE".

D) PARA 7: BECOMES NEW PARA 6 AND "MIGHT HAVE" IS REPLACED BY "APPEAR TO HAVE".

E) PARA 6 BECOMES NEW PARA 7.

F) PARA 8: DELETE WORD "WHOLLY". PARA 8 IS COMBINED WITH PARA 9 AS FOLLOWS: AFTER "... REQUEST OF TSB," REMAINDER OF PARA 8 IS DELETED AND REPLACED BY "THE MEASURES TAKEN BY AUSTRALIA WERE NOT FULLY IN CONFORMITY WITH PROVISIONS OF MFA."

G) OLD PARA 9 IS DELETED.

H) PARA 10 BECOMES NEW PARA 9 AND INSERT "AND THE

PHILIPPINES" AFTER "AUSTRALIA" AND BEFORE "SHOULD".

I) PARA 11 BECOMES NEW PARA 10.

9. ABOVE IS PROVIDED FOR THE RECORD. IN EVENT, AS
INDICATED IN NOVEMBER 20 ANGEVINE-PHELAN TELECON, A
MORE PROMISING APPROACH FOR ACHIEVEMENT OF U.S. OB-
JECIVE MATERIALIZES WE WOULD APPRECIATE AN EARLY PROGRESS
REPORT TO WHICH WE COULD RESPOND WITH APPROPRIATE
POLICY GUIDANCE. KISSINGER

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